



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 272

[EPA-R06-RCRA-2020-0261; FRL-9240-02-R6]

Louisiana: Incorporation by Reference of Approved State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule codifies in the regulations the prior approval of Louisiana’s hazardous waste management program and incorporates by reference authorized provisions of the State’s statutes and regulations. The Environmental Protection Agency (EPA) uses the regulations entitled “Approved State Hazardous Waste Management Programs” to provide notice of the authorization status of State programs and to incorporate by reference those provisions of the State statutes and regulations that are authorized and that EPA will enforce under the Solid Waste Disposal Act, commonly referred to as the Resource Conservation and Recovery Act (RCRA). The EPA previously provided notices and opportunity for comments on the Agency’s decisions to authorize the State of Louisiana program and the EPA is not now reopening the decisions, nor requesting comments, on the Louisiana authorizations as previously published in the *Federal Register* documents specified in Section I.C of this final rule document.

DATES: This regulation is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. The Director of the *Federal Register* approves this incorporation by reference as of [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R06-RCRA-2020-0261. All documents in the docket are listed in the

<https://www.regulations.gov> index. Although listed in the index, some of the information is not

publicly available. e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically through <https://www.regulations.gov>. For alternative access to docket materials, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Alima Patterson, EPA Region 6 Regional Authorization/Codification Coordinator, RCRA Permit Section (LCR-RP), Land, Chemicals and Redevelopment Division, EPA Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270, phone number: (214) 665-8533, e-mail address: patterson.alima@epa.gov. The EPA Region 6 office is open from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19.

SUPPLEMENTARY INFORMATION:

I. Incorporation by reference

A. What is codification?

Codification is the process of placing a State's statutes and regulations that comprise the State's authorized hazardous waste management program into the Code of Federal Regulations (CFR). Section 3006(b) of RCRA, as amended, allows the EPA to authorize State hazardous waste management programs to operate in lieu of the Federal hazardous waste management regulatory program. The EPA codifies its authorization of State programs in 40 CFR part 272 and incorporates by reference State statutes and regulations that the EPA will enforce under sections 3007 and 3008 of RCRA and any other applicable statutory provisions.

The incorporation by reference of State authorized programs in the CFR should substantially enhance the public's ability to discern the current status of the authorized State program and State requirements that can be Federally enforced. This effort provides clear notice to the public of the scope of the authorized program in each State.

B. Why wasn't there a proposed rule before this rule?

The EPA is publishing this rule to codify Louisiana's authorized hazardous waste management program without a prior proposal because we believe this action is not controversial. The reason being that, in accordance with section 3006(b) of RCRA, EPA has already evaluated the State's regulatory and statutory requirements and has determined that the State's program meets the statutory and regulatory requirements established by RCRA. The EPA previously provided notices and opportunity for comments on the Agency's decisions to authorize the Louisiana program. The EPA is not now reopening the decisions, nor requesting new comments, on the Louisiana authorizations as previously published in the *Federal Register* documents specified in Section I.C of this final rule document. The previous authorizations form the basis for the codification addressed in this final rule.

C. What is the history of the authorization and codification of Louisiana's hazardous waste management program?

The State of Louisiana initially received final authorization on January 24, 1985, effective February 7, 1985 (50 FR 3348), to implement its base Hazardous Waste Management Program. We granted authorization for changes to their program on November 28, 1989 (54 FR 48889) effective January 29, 1990; August 26, 1991 (56 FR 41958), as corrected October 15, 1991 (56 FR 51762) effective October 25, 1991; November 7, 1994 (59 FR 55368) effective January 23, 1995 (Note: On January 23, 1995 (60 FR 4380), the EPA responded to adverse public comments and affirmed the effective date for the November 7, 1994 final rule. Then on April 11, 1995 (60 FR 18360); the EPA also made administrative corrections for the January 23, 1995 *Federal Register* document); December 23, 1994 (59 FR 66200) effective March 8, 1995; October 17, 1995 (60 FR 53704 and 60 FR 53707) effective January 2, 1996; March 28, 1996 (61 FR 13777) effective June 11, 1996; December 29, 1997 (62 FR 67572 and 62 FR 67578) effective March 16, 1998; October 23, 1998 (63 FR 56830) effective December 22, 1998; August 25, 1999 (64 FR 46302) effective October 25, 1999; September 2, 1999 (64 FR 48099) effective November 1, 1999; February 28, 2000 (65 FR 10411) effective April 28, 2000; January

2, 2001 (66 FR 23) effective March 5, 2001; December 9, 2003 (68 FR 68526) effective February 9, 2004; June 10, 2005 (70 FR 33852) effective August 9, 2005; November 13, 2006 (71 FR 66116) effective January 12, 2007; August 16, 2007 (72 FR 45905) effective October 15, 2007; May 20, 2009 (74 FR 23645) effective July 20, 2009; August 5, 2010 (75 FR 47223) effective October 4, 2010; June 24, 2011 (76 FR 37021) effective August 23, 2011; June 28, 2012 (77 FR 38530) effective August 27, 2012; July 13, 2012 (77 FR 41292) effective September 11, 2012; September 25, 2013 (78 FR 58890) effective November 25, 2013; September 14, 2015 (80 FR 55032) effective November 13, 2015; October 21, 2016 (81 FR 72730) effective December 20, 2016, July 13, 2017 (82 FR 32253) effective September 11, 2017, and December 26, 2018 (83 FR 66143) effective December 26, 2018.

The EPA incorporated by reference Louisiana's then authorized hazardous waste management program effective March 16, 1998 (62 FR 67578), October 4, 2010 (75 FR 47223), September 11, 2012 (77 FR 41292), November 25, 2013 (78 FR 58890), and December 20, 2016 (81 FR 72730).

In this document, the EPA is revising Subpart T of 40 CFR part 272 to include the authorization revision actions effective September 11, 2017 (82 FR 32253) and December 26, 2018 (83 FR 66143).

D. What codification decisions have we made in this rule?

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference of the authorized hazardous waste management program of the State of Louisiana. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Louisiana rules described in the amendments to 40 CFR part 272 set forth in section 272.951. The EPA has made, and will continue to make, these documents available electronically through <https://www.regulations.gov> and in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

The purpose of this *Federal Register* document is to codify the EPA's authorization of

Louisiana's base hazardous waste management program and the State's revisions to that program. The document incorporates by reference Louisiana's hazardous waste statutes and regulations and clarifies which of these provisions are included in the authorized and Federally enforceable program. By codifying Louisiana's authorized program and by amending the CFR, the public will be more easily able to discern the status of Federally-approved requirements of the Louisiana hazardous waste management program.

The EPA is incorporating by reference the Louisiana authorized hazardous waste program in Subpart T of 40 CFR part 272. Section 272.951(c)(1) incorporates by reference Louisiana's authorized hazardous waste statutes and regulations. Section 272.951 also references material which is not being incorporated by reference, but which the EPA considered in determining the adequacy of Louisiana's program. Section 272.951(c)(2) references sections of the Louisiana statutes which provide the legal basis for the State's implementation of the hazardous waste management program. In addition, §§272.951(c)(5), (6), and (7) reference the Memorandum of Agreement, the Attorney General's Statements, and the Program Description, respectively. These documents are evaluated as part of the approval process of the hazardous waste management program in accordance with subtitle C of RCRA but are not part of the material to be incorporated by reference.

State provisions that are "broader in scope" than the Federal program are not incorporated by reference in 40 CFR part 272. For reference and clarity, the EPA lists in 40 CFR 272.951(c)(3) the Louisiana statutory and regulatory provisions that are "broader in scope" than the Federal program, and which are not part of the authorized program being incorporated by reference. While "broader in scope" provisions are not part of the authorized program and cannot be enforced by the EPA, the State may enforce such provisions under State law. At 40 CFR 272.951(c)(4), EPA lists amendments to Louisiana regulations and Federal rules which are not part of the Louisiana authorized program.

E. What is the effect of Louisiana's codification on enforcement?

The EPA retains its authority under statutory provisions, including but not limited to, RCRA sections 3007, 3008, 3013, and 7003, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions and to issue orders in authorized States. With respect to these actions, the EPA will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than any authorized State analogs to these provisions. Therefore, the EPA is not incorporating by reference such particular, approved Louisiana procedural and enforcement authorities. Section 272.951(c)(2) of 40 CFR lists the statutory and regulatory provisions which provide the legal basis for the State's implementation of the hazardous waste management program, as well as those procedural and enforcement authorities that are part of the State's approved program, but these are not incorporated by reference.

F. What State provisions are not part of the codification?

The public needs to be aware that some provisions of Louisiana's hazardous waste management program are not part of the Federally authorized State program. These non-authorized provisions include:

- (1) Provisions that are not part of the RCRA subtitle C program because they are "broader in scope" than RCRA subtitle C (see 40 CFR 271.1(i));
- (2) Federal rules adopted by Louisiana but for which the State is not authorized; and
- (3) Unauthorized amendments to authorized State provisions.

State provisions that are "broader in scope" than the Federal program are not part of the RCRA authorized program and the EPA will not enforce them. Therefore, they are not incorporated by reference in 40 CFR part 272. For reference and clarity, 40 CFR 272.951(c)(3) lists the Louisiana regulatory provisions which are "broader in scope" than the Federal program and which are not part of the authorized program being incorporated by reference. "Broader in scope" provisions cannot be enforced by the EPA; the State, however, may enforce such provisions under State law.

Additionally, Louisiana's hazardous waste regulations include amendments which have

not been authorized by the EPA. Since the EPA cannot enforce a State's requirements which have not been reviewed and authorized in accordance with RCRA section 3006 and 40 CFR part 271, it is important to be precise in delineating the scope of a State's authorized hazardous waste program. Regulatory provisions that have not been authorized by the EPA include amendments to previously authorized State regulations as well as certain Federal rules.

Louisiana has adopted but is not authorized for Federal rules published in the ***Federal Register*** on July 14, 1986 (51 FR 25422, HSWA provisions only); August 8, 1986 (51 FR 28664); December 1, 1987 (52 FR 45788, requirements addressing Corrective Action for Injection Wells and Post-Closure Permits); and December 17, 2010 (75 FR 78915). In those instances where Louisiana has made unauthorized amendments to previously authorized sections of State code, the EPA is identifying in 40 CFR 272.951(c)(4)(iii) any regulations which, while adopted by the State and incorporated by reference, include language not authorized by the EPA. Those unauthorized portions of the State regulations are not Federally enforceable. Thus, notwithstanding the language in Louisiana hazardous waste regulations incorporated by reference at 40 CFR 272.951(c)(1), the EPA will only enforce those portions of the State regulations that are actually authorized by the EPA. For the convenience of the regulated community, the actual State regulatory text authorized by the EPA for the citations listed at 272.951(c)(4)(ii) (i.e., without the unauthorized amendments) is compiled as a separate document, *Addendum to the EPA-Approved Louisiana Regulatory Requirements Applicable to the Hazardous Waste Management Program, dated December, 2018*. This document is available electronically through <https://www.regulations.gov>, and from EPA Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75207, Phone number: (214) 665-8533.

State regulations that are not incorporated by reference in this rule at 40 CFR 272.951(c)(1), or that are not listed in 40 CFR 272.951(c)(2) ("legal basis for the State's implementation of the hazardous waste management program"), 40 CFR 272.951(c)(3) ("broader in scope"), or 40 CFR 272.951(c)(4) ("unauthorized state amendments"), are considered new

unauthorized State requirements. These requirements are not Federally enforceable. After review and analysis of the State's regulations, the EPA has notified the State to seek authorization for the unauthorized rules that the State has adopted and are documented in this ***Federal Register*** document. The EPA expects the State to include these rules as part of their next Program Revision Application package.

With respect to any requirement pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) for which the State has not yet been authorized, the EPA will continue to enforce the Federal HSWA standards until the State is authorized for these provisions.

G. What will be the effect of Federal HSWA requirements on the codification?

The EPA is not amending 40 CFR part 272 to include HSWA requirements and prohibitions that are implemented by the EPA. Section 3006(g) of RCRA provides that any HSWA requirement or prohibition (including implementing regulations) takes effect in authorized and not authorized States at the same time. A HSWA requirement or prohibition supersedes any less stringent or inconsistent State provision which may have been previously authorized by the EPA (50 FR 28702, July 15, 1985). The EPA has the authority to implement HSWA requirements in all States, including authorized States, until the States become authorized for such requirement or prohibition. Authorized States are required to revise their programs to adopt the HSWA requirements and prohibitions, and then to seek authorization for those revisions pursuant to 40 CFR part 271.

Instead of amending the 40 CFR part 272 every time a new HSWA provision takes effect under the authority of RCRA section 3006(g), the EPA will wait until the State receives authorization for its analog to the new HSWA provision before amending the State's 40 CFR part 272 incorporation by reference. Until then, persons wanting to know whether a HSWA requirement or prohibition is in effect should refer to 40 CFR 271.1(j), as amended, which lists each such provision.

Some existing State requirements may be similar to the HSWA requirement implemented

by the EPA. However, until the EPA authorizes those State requirements, the EPA can only enforce the HSWA requirements and not the State analogs. The EPA will not codify those State requirements until the State receives authorization for those requirements.

II. Statutory and Executive Order Reviews

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). This action incorporates by reference Louisiana's authorized hazardous waste management regulations, and imposes no additional requirements beyond those imposed by State law. Therefore, this action is not subject to review by OMB. This action is not an Executive Order 13771 (82FR 9339, February 3, 2017) regulatory action because actions such as this codification of Louisiana's revised hazardous waste program under RCRA are exempted under Executive Order 12866. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action incorporates by reference pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531 – 1538). For the same reason, this action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes and incorporates by reference existing State requirements as part of the State RCRA hazardous waste management program without altering the relationship or the distribution of power and responsibilities established by RCRA.

This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA section 3006(b), EPA grants a State’s application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. The requirements being codified are the result of Louisiana’s voluntary participation in the EPA’s State program authorization process under RCRA Subtitle C. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the “Attorney General’s Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings” issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). “Burden” is defined at 5 CFR 1320.3(b).

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Because this rule codifies pre-existing State rules which are at least equivalent to, and no less stringent than existing Federal requirements, and imposes no additional requirements beyond those imposed by State law, and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive

Order 12898.

The Congressional Review Act, 5 U.S.C. 801 – 808, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 272

Environmental protection, Hazardous waste, Hazardous materials transportation, Incorporation by reference, Intergovernmental relations, Water pollution control, Water supply.

Authority: This action is issued under the authority of Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926 and 6974(b).

Dated: November 5, 2021.

David Gray,
Acting Regional Administrator, Region 6.

For the reasons set forth in the preamble, under the authority at 42 U.S.C. 6912(a), 6926, and 6974(b), the EPA is amending 40 CFR part 272 as follows.

PART 272 - APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

1. The authority citation for part 272 continues to read as follows:

Authority: Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

2. Revise § 272.951 to read as follows:

§ 272.951 Louisiana State-Administered Program: Final Authorization.

(a) *History of the State of Louisiana authorization.* Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), the EPA granted Louisiana final authorization for the following elements as submitted to EPA in Louisiana's base program application for final authorization which was approved by EPA effective on February 7, 1985. Subsequent program revision applications were approved effective on January 29, 1990; October 25, 1991 as corrected October 15, 1991; January 23, 1995 as corrected April 11, 1995; March 8, 1995; January 2, 1996; June 11, 1996; March 16, 1998; December 22, 1998; October 25, 1999; November 1, 1999; April 28, 2000; March 5, 2001; February 9, 2004; August 9, 2005; January 12, 2007; October 15, 2007; July 20, 2009; October 4, 2010; August 23, 2011; August 27, 2012; September 11, 2012; November 25, 2013; November 13, 2015; December 20, 2016; September 11, 2017; and December 26, 2018.

(b) *Enforcement authority.* The State of Louisiana has primary responsibility for enforcing its hazardous waste management program. However, EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 3007, 3008, 3013, 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, 6973, and any other applicable statutory and regulatory provisions, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) *State Statutes and Regulations--(1) Incorporation by reference.* The Louisiana statutes and regulations cited in paragraph (c)(1)(i) of this section are incorporated by reference as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.* The Director of the **Federal Register** approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the Louisiana regulations that are incorporated by reference in this paragraph from the Office of the State Register, P. O. Box 94095, Baton Rouge, LA 70804-9095; Phone number: (225) 342-5015;

Website: www.doa.la.gov/Pages/osr/lac/Code.aspx. The statutes are available from Thomson Reuters, 610 Opperman Drive, Eagan, Minnesota 55123; Phone: 1-888-728-7677; website: <https://legalsolutions.thomsonreuters.com>. You may inspect a copy at EPA Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270 (Phone number (214) 665-8533), or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email fedreg.legal@nara.gov, or go to: www.archives.gov/federal-register/cfr/ibr-locations.html.

(i) The compilation entitled “EPA-Approved Louisiana Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program”, dated December 2018. Only those provisions that have been authorized by EPA are incorporated by reference. Those provisions are listed in appendix A to this part.

(ii) [Reserved]

(2) *Legal basis.* The following provisions provide the legal basis for the State’s implementation of the hazardous waste management program, but they are not being incorporated by reference and do not replace Federal authorities:

(i) Louisiana Statutes Annotated, Revised Statutes, 2017 Main Volume (effective April 23, 2017), Volume 17B, Subtitle II of Title 30, Louisiana Environmental Quality Act: Chapter 1, Section 2002; Chapter 2, Sections 2011.A(1), 2011.B and C, 2011.D (except 2011.D(4), (10)–(12), (16), (19), (20), (23) and (25)), 2011.E–G, 2012, 2013, 2014.A (except 2014.A.3), 2014.2, 2017, 2019.A–C, 2020, 2021, 2022.A (except the first sentence of 2022.A(1)); 2022.B and C; 2022.1(B), 2023 (except phrase “Except as otherwise provided in this Subsection,” in 2023.A(1) and 2023.A(2)); 2024, 2025 (except 2025.D, .F(3), .H, and .K), 2026 through 2029, 2033.A–D; Chapter 2-A, Section 2050.8; Chapter 3, Sections 2054.B(1), 2054.B(2)(a); Chapter 9, Sections 2172, 2174, 2175, 2180.A–C, 2181, 2183.C, and .F–.H, 2183.1.B, 2183.2, 2184.B, 2186, 2187, 2188.A and C, 2189.A and B, 2190.A–D, 2191.A–C, 2192, 2193, 2196, 2199, 2200, 2203.B and C, 2204.A(2), A(3) and B; Chapter 13, Sections 2294(6), 2295.C; Chapter 16, Section 2369;

Chapter 18, Section 2417.A.

(ii) Louisiana Administrative Code, Title 33, Part I, Office of The Secretary Part I, Subpart 1: Departmental Administrative Procedures: Chapter 5, Sections 501.A, effective October 20, 2007, 501.B, effective October 20, 2005, 502, effective September 20, 2008, and 503 through 511, effective October 20, 2005; Chapter 7, Section 705, effective October 20, 2006; Chapter 19, Sections 1901 through 1909, effective November 20, 2010; Chapter 23, Sections 2303 through 2309, effective October 20, 2009.

(iii) Louisiana Administrative Code, Title 33, Part V, Hazardous Waste and Hazardous Materials, Louisiana Hazardous Waste Regulations, dated January 2018, unless otherwise specified: Chapter 1, Sections 101, 107.A.-.C; Chapter 3, Sections 301, 311.A, 311.C, 315 introductory paragraph, 323.B.3, 323.B.4.d and e; Chapter 5, Section, 503; Chapter 7, Sections 703, 705, 707, 709 through 721; and Chapter 22, Sections 2201.A, 2201.E, 2201.F.

(3) *Related legal provisions.* The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the authorized program, and are not incorporated by reference:

(i) Louisiana Statutes Annotated, Revised Statutes, 2017 Main Volume (effective April 23, 2017), Volume 17B, Subtitle II of Title 30, Louisiana Environmental Quality Act: Chapter 2, Sections 2014.B and D; Chapter 9, Sections 2178 and 2197.

(ii) Louisiana Administrative Code, Title 33, Part I, Office of The Secretary Part I, Subpart 1: Departmental Administrative Procedures: Chapter 19, Section 1911, effective November 20, 2010.

(iii) Louisiana Administrative Code, Title 33, Part V, Hazardous Waste And Hazardous Materials, Louisiana Hazardous Waste Regulations, dated January 2018, unless otherwise specified: Chapter 1, Sections, 105.D.1.y, 105.O.1.f, 105.O.2.d, 105.R.5, 108.F.5, 108.G.5 and 109 Analogous Product; 109 Analogous Raw Material; 109 Intermediate; Chapter 3, Section 327; Chapter 4, Sections 401 through 409; Chapter 11, Sections 1101.G and 1109.E.7.f; Chapter

(4) *Unauthorized State amendments and provisions.* (i) Louisiana has adopted but is not authorized to implement the HSWA rules that are listed in the Table in lieu of the EPA. The EPA will enforce the Federal HSWA standards for which Louisiana is not authorized until the State receives specific authorization from EPA.

Table 1 to Paragraph (c)(4)(i)

Federal Requirement	<i>Federal Register</i> Reference	Publication Date
Standards for Hazardous Waste Storage and Treatment Tank Systems (HSWA portions) (Rule 28H)	51 FR 25422	July 14, 1986
Exports of Hazardous Waste (HSWA) (Checklist 31)	51 FR 28664	August 8, 1986
HSWA Codification Rule 2: Requirements addressing Corrective Action for Injection Wells and Post-Closure Permits (HSWA) (Checklists 44 C and 44G)	52 FR 45788	December 1, 1987
Removal of Saccharin and its Salts from the Lists of Hazardous Wastes (Non-HSWA) (Checklist 225)	75 FR 78918	December 17, 2010

(ii) The Federal rules listed in the table below are not delegable to States. Louisiana has adopted these provisions and left the authority to the EPA for implementation and enforcement.

Table 2 to Paragraph (c)(4)(ii)

Federal Requirement	<i>Federal Register</i> Reference	Publication Date
Imports and Exports of Hazardous Waste: Implementation of OECD Council Decision (HSWA) (Checklist 152)	61 FR 16290	April 12, 1996
OECD Requirements; Export Shipments of Spent Lead-Acid Batteries (Non-HSWA) (Checklist 222)	75 FR 1236	January 8, 2010

(iii) (A) The following authorized provisions of the Louisiana regulations include amendments published in the Louisiana Register that are not approved by EPA. Such unauthorized amendments are not part of the State's authorized program and are, therefore, not Federally enforceable. Thus, notwithstanding the language in the Louisiana hazardous waste

regulations incorporated by reference at paragraph (c)(1)(i) of this section, EPA will enforce the State provisions that are actually authorized by EPA. The effective dates of the State's authorized provisions are listed as follows.

Table 3 to Paragraph (c)(4)(iii)(A)

State Provision	Effective Date of Authorized Provision
LAC 1111.B.1.c.....	March 20, 1984
LAC 1113	March 20, 1984

(B) The actual State regulatory text authorized by EPA (i.e., without the unauthorized amendments) is available as a separate document, *Addendum to the EPA-Approved Louisiana Regulatory and Statutory Requirements Applicable to the Hazardous Waste Management Program, dated December, 2018*. Copies of the document can be obtained electronically through <https://www.regulations.gov>, and from U.S. EPA Region 6, 1201 Elm Street, Suite 500, Dallas, TX 75207.

(5) *Memorandum of Agreement*. The Memorandum of Agreement between EPA Region 6 and the State of Louisiana, signed by the Secretary of the State of Louisiana Department of Environmental Quality (LDEQ) on January 30, 2018 and the EPA Regional Administrator on August 28, 2018 is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(6) *Statement of Legal Authority*. "Attorney General's Statement for Final Authorization", signed by the Attorney General of Louisiana on May 10, 1989 and revisions, supplements and addenda to that Statement dated May 13, 1991, May 3, 1994, December 2, 1994, May 31, 1995, July 24, 1995, November 30, 1995, December 13, 1996, April 15, 1998, January 13, 1999, January 27, 1999, August 19, 1999, August 29, 2000, October 17, 2001, February 25, 2003, December 19, 2005, September 5, 2006, October 9, 2008, January 14, 2010, April 18, 2012, June 11, 2014, July 27, 2016, and July 17, 2017 are referenced as part of the

authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(7) *Program Description.* The Program Description and any other materials submitted as part of the original application or as supplements thereto are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

3. Appendix A to part 272 is amended by revising the listing for “Louisiana” to read as follows:

Appendix A to Part 272 — State Requirements

* * * * *

Louisiana

The statutory provisions include:

Louisiana Statutes Annotated, Revised Statutes, 2017 Main Volume (effective April 23, 2017), Volume 17B, Subtitle II of Title 30, Louisiana Environmental Quality Act: Chapter 1, Sections 2003, 2004 introductory paragraph, (2)–(4), (7)–(10), (13), (14) (except (14)(b)–(d)), (15), and (18); Chapter 2, Section 2022.A(1), first sentence, 2022.1(A); Chapter 8, Section 2153(1); Chapter 9, Sections 2173 (except 2173(9)), 2183.A, B, D, E, and I, 2183.1.A, 2184.A, 2188.B, 2189.C, 2202, 2203.A, 2204.A(1) and C; Chapter 13, Sections 2295.A and B; Chapter 18, Section 2417.E(5).

Copies of the Louisiana statutes that are incorporated by reference are available from Thomson Reuters, 610 Opperman Drive, Eagan, Minnesota 55123; Phone: 1–888–728–7677; website: <https://legalsolutions.thomsonreuters.com>.

The regulatory provisions include:

Louisiana Administrative Code, Title 33, Part V, Hazardous Waste and Hazardous Materials, Louisiana Hazardous Waste Regulations, Part V, Subpart 1: Department of

Environmental Quality – Hazardous Waste, dated January 2018.

Chapter 1 - General Provisions and Definitions, Sections 103; 105 (except 105.D.1.y, 105.O.1.f, 105.O.2.d, 105.P, and 105.R.5); 108 (except 108.F.5 and 108.G.5); 109 (except “Analogous Product”, “Analogous Raw Material”, “Batch Tank”, “Competent Authorities”, “Concerned Countries”, “Consignee”, “Continuous-Flow Tank”, “Country of Export”, “Country of Import”, “Country of Transit”, “EPA Acknowledgement of Consent”, “Exporter”, “Exporting Country”, “Importer”, “Importing Country”, “Intermediate”, “OECD”, “Organization for Economic Cooperation and Development (OECD) Area”, “Primary Exporter”, “Receiving Country”, “Recognized Trader”, “Recovery Facility”, “Recovery Operations”, “Transboundary Movement”, and “Transit Country”); 110 (except 110.G.1 and reserved provisions); 111;

Chapter 3 - General Conditions for Treatment, Storage, and Disposal Facility Permits, Sections 303; 305 (except 305.F and .G); 307; 309; 311 (except 311.A and .C); 313; 315.A–.D; 317; 319; 321; 322 (except 322.D.1.g); 323 (except 323.B.3, .B.4.d and .e); 325; 329;

Chapter 5 - Permit Application Contents, Sections 501; 505 through 516; 517 (except the following phrases in 517.V: “or 2271, or a determination made under LAC 33:V.2273,” and, “or a determination”); 519 through 528; 529 (except 529.E introductory paragraph through .E.3); 530 through 536; 537 (except reserved provision); 540 through 699;

Chapter 7 - Administrative Procedures for Treatment, Storage, and Disposal Facility Permits, Sections 701; 706; 708;

Chapter 11 - Generators, Sections 1101 (except 1101.B and .G); 1103; 1105; 1107 (except reserved provision); 1109 (except E.7.f and reserved provision); 1111.A, 1111.B.1 introductory paragraph (except the phrase “to a treatment, storage, or disposal facility within the United States”), 1111.B.1.a.–.c, 1111.B.1.d (except the phrase “within the United States”), 1111.B.1.e (except the phrase “within the United States”), 1111.B.1.f.–.h, 1111.B.2 (except the phrase “for a period of at least three years from the date of the report” and the third and fourth sentences), 1111.C–.E; 1113; 1121; 1199 Appendix A;

Chapter 13 – Transporters, Sections 1301 (except 1301.F); 1303; 1305; 1307.A introductory paragraph (except the third sentence), 1307.B, 1307.C (except the last sentence), 1307.D, 1307.E (except the phrase “and, for exports, an EPA Acknowledgment of Consent” at 1307.E.2), 1307.F (except the phrase “and, for exports, an EPA Acknowledgment of Consent” at 1307.F.2), 1307.G (except 1307.G.4), 1307.H–N; 1309, 1311, 1315 through 1323;

Chapter 15 - Treatment, Storage, and Disposal Facilities, Sections 1501 (except reserved provision); 1503 through 1515; 1516 (except 1516.B.4); 1517 through 1529; 1531 (except 1531.B); 1533; 1535;

Chapter 17 - Air Emission Standards, Sections 1701 through 1767; 1799, Appendix Table 1;

Chapter 18 - Containment Buildings, Sections 1801; 1802; 1803 (except 1803.B.2);

Chapter 19 – Tanks, Sections 1901 through 1907 (except 1907.E.1.e & .f, .E.2.d, .J, and .K), 1909.A-C, 1911 through 1921;

Chapter 20 - Integration with Maximum Achievable Control Technology (MACT), Section 2001;

Chapter 21 – Containers, Sections 2101 through 2119;

Chapter 22 - Prohibitions on Land Disposal, Sections 2201.B–D, 2201.G (except reserved provision), 2201.H, 2201.I; 2203.A (except “Cone of Influence”, “Confining Zone”, “Formation”, “Injection Interval”, “Injection Zone”, “Mechanical Integrity”, “Transmissive Fault or Fracture”, “Treatment”, and “Underground Source of Drinking Water”), 2203.B; 2205 (except the phrase “or a determination made under LAC 33:V.2273,” in 2205.D); 2207; 2208; 2209 (except the phrase “or a determination made under LAC 33:V.2273,” in 2209.D.1); 2211; 2213; 2215; 2216 (except the phrase “or 2271” in 2216.E.2); 2218 (except the phrase “or 2271” in 2218.B.2); 2219; 2221.D–F; 2223; 2227 (except reserved provision); 2230; 2231.G–M; 2233; 2236; 2237; 2245 (except 2245.J and .K); 2246; 2247 (except 2247.G and .H); 2299 Appendix (except Tables 4 (Reserved) and 12 (Repealed));

Chapter 23 - Waste Piles, Sections 2301 through 2313; 2315 (except the word “either” at the end of 2315.B introductory paragraph; the word “or” at the end of 2315.B.1; and 2315.B.2); 2317;

Chapter 24 - Hazardous Waste Munitions and Explosives Storage, Sections 2401 through 2405;

Chapter 25 - Landfills, Sections 2501 through 2523;

Chapter 26 - Corrective Action Management Units and Temporary Units, Sections 2601 through 2607;

Chapter 27 - Land Treatment, Sections 2701 through 2723;

Chapter 28 - Drip Pads, Sections 2801 through 2807; 2809 (except the word “either” at the end of 2809.B introductory paragraph; the word “or” at the end of 2809.B.1; and 2809.B.2);

Chapter 29 - Surface Impoundments, Sections 2901 through 2909; 2911 (except the word “either” at end of 2911.B introductory paragraph; and 2911.B.1); 2913 through 2919;

Chapter 30 - Hazardous Waste Burned in Boilers and Industrial Furnaces, Sections 3001 through 3007; 3009 (except reserved provision); 3011 through 3025; 3099 Appendices A through L;

Chapter 31 – Incinerators, Sections 3101 through 3121;

Chapter 32 - Miscellaneous Units, Sections 3201; 3203; 3205; 3207 (except 3207.C.2);

Chapter 33 - Groundwater Protection, Sections 3301 through 3321; 3322 (except 3322.D); 3323; 3325 and Table 4;

Chapter 35 - Closure and Post-Closure, Sections 3501 through 3505; 3507 (except 3507.B); 3509 through 3519; 3521 (except 3521.A.3); 3523 through 3527;

Chapter 37 - Financial Requirements, Sections 3701 through 3719;

Chapter 38 - Universal Wastes, Sections 3801 through 3811; 3813 (except “Mercury-containing lamp”); 3815 through 3833; 3835 (except the phrase “, other than to those OECD countries...requirements of LAC 33:V.Chapter 11.Subchapter B),” at 3835.A introductory

paragraph); 3837 through 3855; 3857 (except the phrase “, other than to those OECD countries...requirements of LAC 33:V.Chapter 11.Subchapter B),” at 3857.A introductory paragraph); 3859 through 3869; 3871 (except the phrase “other than to those OECD countries...requirements of LAC 33:V.Chapter 11.Subchapter B)” at 3871.A introductory paragraph); 3873 through 3877; 3879 (except 3879.B); 3881; 3883;

Chapter 40 - Used Oil, Sections 4001 through 4093;

Chapter 41 - Recyclable Materials, Sections 4101; 4105 (except 4105.A.1.a.i and ii; and 4105.A.4); 4139; 4141; 4143 (except the word “and” at the end of 4143.B.4; and 4143.B.5); 4145;

Chapter 42 - Conditional Exemption for Low-Level Mixed Waste Storage and Disposal, Sections 4201 through 4243;

Chapter 43 - Interim Status, Sections 4301 through 4371; 4373 (except the last two sentences “The administrative authority...as demonstrated in accordance with LAC 33:I.Chapter 13.” in 4373.K.1); 4375; 4377; 4379 (except 4379.B); 4381 through 4387; 4389 (except 4389.C); 4391 through 4397; 4399; 4401 through 4413; 4417 through 4456, 4457.A (except 4457.A.2), 4457.B (except the phrase: “If the owner or operator...he must” in the introductory paragraph), 4457.C; 4459 through 4474; 4475 (except the word “either” at the end of 4475.B introductory paragraph; the word “or” at the end of 4475.B.1; and 4475.B.2); 4476 through 4499; 4501 through 4703; 4705 (except the word “either” at the end of 4705.B introductory paragraph; the word “or” at the end of 4705.B.1; and 4705.B.2); 4707 through 4739;

Chapter 49 - Lists of Hazardous Wastes, Sections 4901; 4903; 4907; 4911 through 4915; 4999, Appendices C through E;

Chapter 53 - Military Munitions, Sections 5301 through 5311; Louisiana Administrative Code, Title 33, Part VII, Solid Waste, as amended through June 2011; Sections 301.A.2.a; and 315.J.

Copies of the Louisiana Administrative Code as published by the Office of the State

Register, P. O. Box 94095, Baton Rouge, LA 70804-9095; Phone: (225) 342-5015; Website:

www.doa.la.gov/Pages/osr/lac/Code.aspx.

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